**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929**

**WP(C).No. 15494 of 2004(T)**
**----------**
**OPARB.53/1995 of III ADDL.SUB COURT, ERNAKULAM**
**.....**

**PETITIONER:**
**----------**

**A.SAGARAN,AGED 47 YRS,S/O ANANDAN,**
**RESIDING AT VAKKAYIL KIZHAKKATHIL HOUSE,**
**PERUNGALA P.O,KAYAMKULAM,ALAPPUZHA DT.,FORMERLY**
**RRESIDING AT KAVUMCHERAYIL BUNGLOW,**
**KANDALLOOR SOUTH P.O.,KAYAMKULAM,ALAPPUZHA DT.**

**BY ADV. SRI.K.L.VARGHESE**
**SMT.SANTHA VARGHESE**

**RESPONDENT:**
**----------**

**SR.DIVISIONAL MANAGER,**
**COCHIN DIVISIONAL OFFICE,BHARATH PETROLEUM**
**CORPORATION LTD.,KOCHI-682 031.**

**BY ADV. SRI.N.N.SUGUNAPALAN, SC, BPC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WPC.NO.15494/2004 T**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF I.A.NO.3868/1995 FOR CONDONATION OF DELAY.**

**EXT.P2:** **COPY OF I.A.NO.1044/1999 FOR SETTING ASIDE THE ORDER AND FOR RESTORATION.**

**EXT.P3:** **COPY OF I.A.NO.5807/2002 FOR AMENDMENT.**

**EXT.P4:** **COPY OF OBJECTION IN I.A.NO.5807/2002 FILED BY THE RESPONDENT.**

**EXT.P5:** **COPY OF ORDER DTD. 24/01/2004 IN I.A.NO.5807/02 IN O.P.(ARB) NO.53/95.**

**/TRUE COPY/**

*KSS*

**M.N.KRISHNAN, J.**

---

**WP(C)No.15494 OF 2004 T**

---

**Dated this the 28th May, 2007.**

**JUDGMENT**

This writ petition is filed to quash the order passed by the III Additional Sub Judge, Ernakulam in I.A.5807/2002. The said application is for amendment of an I.A.1044/99. The petitioner wants to incorporate a prayer in I.A.1044/99. The Court below dismissed the application on the ground that two separate applications are necessary i.e one for condonation of delay and another for restoration of the matter. There cannot be any objection that all the averments can be incorporated in one application and when two prayers are made, only two court fees have to be collected as per the rules. It was not correct on the part of the learned Subordinate Judge to dismiss that application on that technical ground. Whether there are sufficient reasons to condone the delay and there are sufficient grounds to restore the matter are matters which are to be considered independently after permitting both parties to adduce evidence in support of their respective contentions. Therefore the writ petition is allowed and the order under challenge set aside and I.A.5807/2002 is allowed and the amendment sought for is permitted to be incorporated in I.A.1044/99. It is made

clear that if court fee is not paid for the second prayer, the Court may collect the court fee from the petitioner as well.

**M.N.KRISHNAN**
**Judge**

jj